

AMENDED IN SENATE MAY 27, 2008
AMENDED IN SENATE APRIL 9, 2008
AMENDED IN SENATE MARCH 28, 2008

SENATE BILL

No. 1500

Introduced by Senator Kehoe

February 21, 2008

An act to add Sections 65865.6, 65962.1, and 66474.11 to the Government Code, and to add Sections 4138 and 21096.5 to the Public Resources Code, relating to the environment.

LEGISLATIVE COUNSEL'S DIGEST

SB 1500, as amended, Kehoe. Environment: CEQA: fire hazards: state responsibility areas.

(1) Existing law requires the state to have the primary financial responsibility for preventing and suppressing fires in areas that the State Board of Forestry and Fire Protection has determined are state responsibility areas.

This bill would require ~~that~~, on and after July 1, 2009, if the legislative body of a county considers entering into development contracts, approving certain permits or entitlements, or approving a tentative map or parcel map for a subdivision, for a project, *as defined*, located within a state responsibility area, the county ~~would be required~~ to notify the State Board of Forestry and Fire Protection of the proposed project *when the application is deemed complete*. The board would then be required to evaluate whether the proposed project should remain in the state responsibility area or be a local responsibility for structural fire protection services. *This bill would require the board to charge a fee to the applicant sufficient to fully cover the costs of the project review.*

The board would be required to deposit the fee revenues in the Project Review Special Fund, which the bill would create in the State Treasury. The board would be authorized to expend the moneys deposited in the Project Review Special Fund, upon appropriation by the Legislature, to carry out these project evaluations. If the board determines that the affected lands should be removed from the state responsibility area, the county would be prohibited from acting on the proposed project until it ensures the provision of structural fire protection by complying with any one of 3 certain requirements to ensure that structural fire protection is provided, including, but not limited to, contracting with the Department of Forestry and Fire Protection to provide structural fire protection services. The board would be prohibited from delegating its review responsibilities to a county or a nonstate entity.

Because this bill would impose new duties on local governments with respect to notification to the board and analysis of proposed actions, the bill would create a state-mandated local program.

(2) The California Environmental Quality Act (CEQA) requires a lead agency, which includes a local agency, to prepare, or cause to be prepared by contract, and certify the completion of, an environmental impact report on a project, as defined, that may have a significant effect on the environment, or to adopt a negative declaration if it finds that the project will not have that effect.

This bill would require a lead agency to consult with the State Board of Forestry and Fire Protection for a project within a state responsibility area or a very high fire-hazardous hazard severity zone. The lead agency would be required to submit specified notices to the ~~State Board of Forestry and Fire Protection~~ board for those projects. *The board would be prohibited from delegating its responsibilities to a county or a nonstate entity.* Because a lead agency includes a local agency, this bill would increase the level of services provided by a local agency, thereby imposing a state-mandated local program.

(3) The Planning and Zoning Law requires a city, county, or city and county to adopt a comprehensive, long-term general plan for the physical development of the city, county, or city and county that addresses a number of specified elements. The law authorizes the legislative body of a city or county to adopt zoning ordinances regulating, among other things, the use of buildings, structures, and land. The law authorizes a city or county to enter into a development agreement with a person having a legal or equitable interest in real property for the development of the property.

This bill would prohibit a legislative body of a county from entering into a development agreement for a project, ~~as defined~~, located in a state responsibility area and would prohibit a county from approving a discretionary permit or entitlement or a ministerial permit that would result in construction of a residential dwelling unit located in a state responsibility area, unless the county complies with certain specified requirements.

(4) The Subdivision Map Act requires the legislative body of a city or county to deny approval of a tentative map or a parcel map for which a tentative map was not required, under certain circumstances.

This bill would prohibit the legislative body of a county from approving a tentative map, or a parcel map for which a tentative map was not required, for a subdivision located in a state responsibility area, unless the county complies with certain specified requirements.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 65865.6 is added to the Government
2 Code, to read:
3 65865.6. The legislative body of a county shall not enter into
4 a development agreement for a project located in a state
5 responsibility area unless the county complies with the
6 requirements of Section 4138 of the Public Resources Code.
7 SEC. 2. Section 65962.1 is added to the Government Code, to
8 read:
9 65962.1. A county shall not approve a discretionary permit or
10 other discretionary entitlement or a ministerial permit that would
11 result in the construction of a residential dwelling unit located in
12 a state responsibility area, unless the county complies with the
13 requirements of Section 4138 of the Public Resources Code.
14 SEC. 3. Section 66474.11 is added to the Government Code,
15 to read:

1 66474.11. The legislative body of a county shall deny approval
2 of a tentative map, or a parcel map for which a tentative map was
3 not required, for a subdivision located within a state responsibility
4 area, unless the county complies with the requirements of Section
5 4138 of the Public Resources Code.

6 SEC. 4. Section 4138 is added to the Public Resources Code,
7 to read:

8 4138. (a) (1) On and after July 1, 2009, if the legislative body
9 of a county considers a proposed project in a state responsibility
10 area, it shall notify the board of the proposed project when the
11 application is deemed complete pursuant to Article 3 (commencing
12 with Section 65940) of Chapter 4.5 of Division 1 of Title 7 of the
13 Government Code. If, pursuant to paragraph (2), the board
14 determines that structural fire protection is a local responsibility,
15 the county shall not act on the proposed project until structural fire
16 protection services are provided, as specified in subdivision (b).

17 (2) Upon notification by a county of a proposed project, the
18 board shall evaluate whether the proposed project should remain
19 in a state responsibility area or be a local responsibility for
20 structural fire protection services as a result of the proposed project.
21 In determining which projects shall remain in a state responsibility
22 area, the board shall consider residential density and shall not
23 include land in a state responsibility area if the residential density
24 exceeds one residential dwelling unit per 20 acres averaged across
25 an area prescribed by the board.

26 (b) If the board determines a proposed project requires the
27 removal of the land from a state responsibility area pursuant to
28 subdivision (a), the county shall not act on the proposed project
29 until the county ensures that structural fire protection services are
30 provided by doing one of the following:

31 (1) Creating a community facilities district for fire protection
32 for the affected area pursuant to Section 53313 of the Government
33 Code.

34 (2) Requiring the annexation of the affected land to a city or
35 special district that provides structural fire protection.

36 (3) (A) Contracting with the department to provide structural
37 fire protection services.

38 (B) *A contract with the department to provide structural fire*
39 *protection services shall include a provision requiring the county*
40 *to pay all state costs to provide the structural fire protection*

1 *services under the contract, including, but not limited to, the*
2 *following:*

- 3 *(i) Equipment costs.*
- 4 *(ii) Costs associated with salaries, wages, benefits, retirement,*
5 *and workers' compensation.*
- 6 *(iii) Costs associated with the administration of salaries, wages,*
7 *benefits, retirement, and workers' compensation.*
- 8 *(iv) Costs associated with entering into the contract.*

9 ~~(B)~~

10 *(C) A contract with the department to provide structural fire*
11 *protection services shall not expire, unless the county provides*
12 *structural fire protection services pursuant to paragraph (1) or (2).*

13 *(c) The board shall charge a fee to each applicant sufficient to*
14 *fully cover the costs of the board's project review.*

15 *(d) (1) The board shall deposit all fee revenues collected*
16 *pursuant to subdivision (c) in the Project Review Special Fund,*
17 *which is hereby created in the State Treasury.*

18 *(2) The board may expend the moneys deposited in the Project*
19 *Review Special Fund, upon appropriation by the Legislature, to*
20 *carry out project evaluations pursuant to this section.*

21 *(e) The board shall not delegate its responsibilities under this*
22 *section to a county or a nonstate entity.*

23 ~~(e)~~

24 *(f) For purposes of this section, "project" means any of the*
25 *following:*

- 26 *(1) A development agreement.*
- 27 *(2) A discretionary permit, other discretionary entitlement, or*
28 *a ministerial permit that would result in the construction of a*
29 *residential dwelling unit.*
- 30 *(3) A tentative map or a parcel map for which a tentative map*
31 *was not required.*

32 SEC. 5. Section 21096.5 is added to the Public Resources Code,
33 to read:

34 21096.5. (a) A lead agency shall consult with the State Board
35 of Forestry and Fire Protection for a project within a state
36 responsibility area or a very high fire hazard severity zone as
37 defined in subdivision (b) of Section 51177 of the Government
38 Code. Consultation may be conducted in the same manner as for
39 responsible agencies pursuant to this division.

1 (b) A lead agency shall submit notices, as required by ~~Section~~
2 *Sections* 21080.4 and 21092, to the State Board of Forestry and
3 Fire Protection for a project within a state responsibility area or a
4 very high fire hazard severity zone as defined in subdivision (b)
5 of Section 51177 of the Government Code.

6 (c) *The State Board of Forestry and Fire Protection shall not*
7 *delegate its responsibilities under this section to a county or a*
8 *nonstate entity.*

9 SEC. 6. No reimbursement is required by this act pursuant to
10 Section 6 of Article XIII B of the California Constitution because
11 a local agency or school district has the authority to levy service
12 charges, fees, or assessments sufficient to pay for the program or
13 level of service mandated by this act, within the meaning of Section
14 17556 of the Government Code.